

MEETING MINUTES CITY OF MILPITAS

Minutes of: Regular Meeting of Milpitas City Council
Date: Tuesday, December 16, 2008
Time: 6:00 PM
Location: Council Chambers, Milpitas City Hall,
455 East Calaveras Blvd., Milpitas

ROLL CALL

Mayor Livengood called the meeting to order at 6:00 PM. City Clerk Lavelle called the roll.

PRESENT: Mayor Livengood, Vice Mayor McHugh, Councilmembers Giordano, Gomez and Polanski

ABSENT: None

CLOSED SESSION

Mayor Livengood stated the City Council would convene to Closed Session for discussion of labor negotiations with three employee groups: Milpitas Professional and Technical Group (ProTech), MPOA (Milpitas Police Officers Association), and the IAFF (International Association of Firefighters).

City Council convened in Open Session at 7:00 PM.

CLOSED SESSION ANNOUNCEMENT

None

PLEDGE

Boy Scouts Troop No. 92 Color Guard led the Pledge of Allegiance. Mayor Livengood thanked the Boy Scouts by name.

MINUTES

Motion: to approve the City Council meeting minutes of December 2, 2008 and amended meeting minutes of November 18, 2008

Motion/Second: Vice Mayor McHugh/Councilmember Gomez

Motion carried by a vote of: AYES: 5
NOES: 0

SCHEDULE OF MEETINGS

Motion: to approve Council Calendar/Schedule of Meetings for December and January

Motion/Second: Vice Mayor McHugh/Councilmember Polanski

Motion carried by a vote of: AYES: 5
NOES: 0

PRESENTATION

Mayor Livengood invited Councilmember Polanski to join him to present Certificates of Appreciation to 15 City of Milpitas Building Maintenance staff. Building Supervisor Eddie Loreda came to the podium to thank the Mayor on behalf of the group. Mr. Livengood noted how wonderfully City Hall had been maintained during recent events in particular and throughout the year also. He told the employees that "good work does not go unnoticed."

PUBLIC FORUM

None

ANNOUNCEMENTS

Councilmember Polanski congratulated the local School District, after recently attending a Solar Installation ceremony with Vice Mayor McHugh. She invited all Councilmember to the jointly sponsored Community Advisory Commission/Emergency Preparedness Commission Town Hall

meeting on February 5, 2009 at 7:00 PM for community emergency preparedness to help citizens get ready. Lastly, she wished all a Merry Christmas and happy holidays.

**ANNOUNCEMENT OF
CONFLICT OF INTEREST**

None

APPROVAL OF AGENDA

Motion: to approve the agenda, as amended

City Manager Williams reported that staff requested removal of agenda items No. 1 and 22.

Councilmember Gomez requested to remove Item No. 9 from the agenda and noted he wanted to consider different use of campaign officeholder accounts.

Motion/Second: Vice Mayor McHugh/Councilmember Giordano

Motion carried by a vote of: AYES: 5
NOES: 0

CONSENT CALENDAR

Motion: to approve the Consent Calendar (items noted with *asterisk), as submitted

Motion/Second: Vice Mayor McHugh/Councilmember Giordano

Motion carried by a vote of: AYES: 5
NOES: 0

*8. Statewide Park Development and Community Revitalization Act of 2008

Directed staff to monitor the Statewide Park Development and Community Revitalization Act of 2008 and to return to the City Council before any application would be submitted for grant funding.

*11. Youth Sports Assistance Fund Grant

Authorized funding one Group Youth Sports Assistance Fund grant in the amount of \$1,000 to the Milpitas Little League Baseball North.

*12. Quarterly Noise Report for Residential Solid Waste Collection 6:00 AM Start Time

Received quarterly noise report from Engineering staff of the trial period for residential solid waste collection 6:00 AM start time, noting that no complaints were received by City staff nor Allied Waste.

*13. Tree City USA Recertification

Authorized staff to apply to the state forester at the California Department of Forestry and Fire Protection for Tree City USA Recertification for 2008.

*15. Ordinance No. 38.781

Waived the second reading and adopted Ordinance No. 38.781 for Zoning Amendment ZA08-0006, amending the Zoning Ordinance Text and Zoning Map.

*16. Ordinance No. 38.782

Waived the second reading and adopted Ordinance No. 38.782 for Zoning Amendment ZC2007-3.

*17. Ordinance No. 38.784

Waived the second reading and adopted Ordinance No. 38.784 for Zoning Amendment ZA08-0007, Massage Establishments.

*18. Resolution Amending the Building Fee Schedule

Adopted Resolution No. 7811 amending the Building Fee Schedule to include a State-Mandated Building Standards Administration Special Revolving Fund Fee, effective January 1, 2009.

*19. Resolution Authorizing Modification to PERS Plan – Mid Management unit

Adopted Resolution No. 7806 allowing the City to convert to member paid PERS consistent with the provisions of Internal Revenue Code Section 414(h)(2) for members of the Mid Management and Confidential Unit.

*20. Resolution Authorizing Modification to PERS Plan – Milpitas Supervisors Assoc.

Adopted Resolution No. 7807 allowing the City to convert to member paid PERS consistent with the provisions of Internal Revenue Code Section 414(h)(2) for members of Milpitas Supervisors Association (MSA).

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| *21. Resolution Implementing Pre-Tax Payroll Deduction Plan for Service Credit Purchase | Adopted Resolution No. 7808 implementing a pre-tax payroll deduction plan for service credit purchases under Internal Revenue Code (IRC) Section 414(h)(2)(Contribution Code 14) for the City of Milpitas employees who are members of Milpitas Supervisors Association (MSA) and Mid-Management and Confidential Unit. |
| *22. SCBA Drager Purchase | This item was removed from the agenda. |
| *23. Agreement with Schaaf & Wheeler for Consulting Services | Approved an agreement with Schaaf & Wheeler Consulting Civil Engineers, Inc., in the amount of \$125,249 subject to approval as to form by the City Attorney. |
| *24. Award Construction Contract for Highway 237 Milpitas Monument Sign | Awarded construction contract to George Bianchi Construction, Inc. for the State Route 237 Milpitas Monument Sign, Project No. 4170, in the amount of \$185,734.58, including add alternate electrical connection. |
| *25. Approve Purchase of Rain Master Irrigation Equipment | Approved the \$22,554.22 sales tax amount on the rain master irrigation equipment purchase from John Deere Landscapes for an adjusted not-to-exceed total amount of \$295,938.70. |
| *26. Change Order No. 11 Engineering for the Main Sewage Pump Station | Authorized the City Engineer to execute Contract Change Order No. 11 with Anderson Pacific Engineering Construction, in the amount of \$12,141.00 for the Main Sewage Pump Station, Project No. 6103. |

PUBLIC HEARINGS

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| 1. Purchase of Property | This matter was removed from the agenda. |
| 2. Abatement of Property at 874 Berryessa Street | <p>Deputy City Attorney Bronwen Lacey explained the situation that had occurred at the property at 874 Berryessa St, and the hazardous conditions found on site, and abated there, by City staff in October.</p> <p>A notice of this hearing was mailed to the property owner and to the residence informing the date and time of the hearing. The purpose was to request the property owner to show cause why abatement costs should not be asserted against it.</p> <p>Councilmember Giordano asked about how assessment would be collected. City Attorney Mike Ogaz replied that the property would be liened, once staff provided documentation of Council action at the County Recorder's office.</p> <p>Mayor Livengood opened the public hearing for comments, and none were heard.</p> <p>(1) <u>Motion</u>: move to close the public hearing</p> <p>Motion/Second: Councilmember Giordano/Vice Mayor McHugh</p> <p>Motion carried by a vote of: AYES: 5
NOES: 0</p> <p>(2) <u>Motion</u>: move to issue an order confirming the assessment of \$2,518.78 against the owner of 874 Berryessa St. for costs to abate the hazardous condition at the property</p> <p>Motion/Second: Councilmember Giordano/Vice Mayor McHugh</p> <p>Motion carried by a vote of: AYES: 5
NOES: 0</p> |
| 3. Community Facilities District No. 2008-1 | Finance Director Emma Karlen explained the purpose of the public hearing, to establish a new Community Facilities District in order to properly ensure costs for maintenance in the Transit Area of Milpitas would be managed for future development. |

She introduced consultants Mr. Russ Powell and Mr. Constantine Berenoff, who worked with City staff in preparation of actions and documents necessary for the new CFD.

Ms. Karlen reviewed development planned as part of the Transit Area Specific Plan, in which in Phase I, 3969 housing units plus retail would be built. Costs for municipal services need to be mitigated, by formation of a Community Facilities District. Costs at the conclusion of build-out were estimated at approximately \$5.2 million annually, according to the fiscal study completed. Proposed was a \$510 maximum annual tax per unit, similar to the tax structure incorporated into CFD 2005-1. Milpitas Station LLC submitted a proposal to build 786 units on 13.77 acres in this area.

Councilmember Giordano asked about the district, with regard to the KB Home project already constructed. Was the request to simply add four more parcels to the CFD or was this going to be a trend, to apply to other districts within the City. Staff responded that more parcels would be annexed to the CFD as more were built. Ms. Giordano asked why not in other areas? Mayor Livengood responded about costs for services to the City that were necessary to be covered.

Vice Mayor McHugh asked about two affordable rental projects approved in this area, and asked would adopting this new CFD preclude additional apartment construction. City Manager Williams responded that he was correct, that it would not. Mayor Livengood also inquired on the same topic, and did not want to preclude rental units with a CFD established.

Next, the Mayor opened the public hearing for comments.

Speaker:

Robert Marini, a 28 year resident of Milpitas, asked about the average cost per unit, about people who pay less and could not afford the tax, and where would the difference come from to pay for City services. Ms. Karlen responded to some of his concerns and spoke about lower expected cost/unit, with the \$510 as simply the maximum per unit that could be charged. This resident's concern was not to raise taxes on existing residents, he explained.

(1) Motion: move to close the public hearing

Motion/Second: Councilmember Polanski/Vice Mayor McHugh

Motion carried by a vote of: AYES: 5
NOES: 0

(2) adopt Resolution establishing Community Facilities District No. 2008-1 and taking other related actions.

Action to adopt the resolution was not taken by the City Council.

Mayor Livengood directed the City Clerk to canvas the results of the election, and to receive a report on the election results from the City Clerk. City Clerk Lavelle reported one "yes" vote received from the landowner's representative for Milpitas Station LLC, (representing 14 parcels).

(3) Motion: adopt Resolution No. 7810 Declaring the Results of the Special Election Held on December 16, 2008 for the Community Facilities District No. 2008-1 (Public Services)

Motion/Second: Councilmember Gomez/Councilmember Giordano

Motion carried by a vote of: AYES: 5
NOES: 0

The City Council directed City Attorney Ogaz to read aloud the title of Ordinance No. 278 and he did so.

(4) Motion: waive the first reading of Ordinance No. 278 beyond the title, following the reading of the title by the City Attorney.

Motion/Second: Councilmember Gomez/Councilmember Giordano

Motion carried by a vote of: AYES: 5
NOES: 0

(5) Motion: introduce Ordinance No. 278

Motion/Second: Councilmember Gomez/Councilmember Giordano

Motion carried by a vote of: AYES: 5
NOES: 0

JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING

RA 1. CALL TO ORDER Mayor/Agency Chair Livengood called to order the regular meeting of the Milpitas Redevelopment Agency, meeting jointly with the City Council, at 7:35 PM.

RA 2. ROLL CALL **PRESENT:** Mayor/Chair Livengood, Vice Mayor/Vice Chair McHugh, Agency/Councilmembers Giordano, Gomez and Polanski

ABSENT: None

RA 3. Agenda Approval and Consent Calendar Motion: to approve the agenda and consent calendar items (*)

Motion/Second: Vice Chair/Vice Mayor McHugh / Agency/Councilmember Polanski

Motion carried by a vote of: AYES: 5
NOES: 0

RA 4. Progress Report on the New Library, Streetscape and Parking Garage CIP Manager Steve Erickson provided a summary on the nearly completed parking garage and new library. He identified the estimated savings at the conclusion of construction and installation of the library. Next, staff displayed some photographs of the inside of the library, and getting ready for the soft opening on Monday, January 5.

Councilmember Polanski asked staff about the elevator at the library. Mr. Erickson reported that the elevator had stopped working a month ago, although with one issue resolved, the elevator was fully operational. He re-iterated his prior invitation that staff could arrange a tour of the new facility for any City Councilmember.

Motion: to receive staff update on the new Milpitas Library, Midtown East Parking Garage, and North Main Streetscape Projects No. 8161, No. 8162, and No. 8165.

Motion/Second: Agency/Councilmember Giordano / Agency/Councilmember Polanski

Motion carried by a vote of: AYES: 5
NOES: 0

***RA 5. Agreement with The Mills for Freeway Sign** Authorized Agency Executive Director to execute an agreement with The Mills, a Simon Company, to lease the freeway sign site at I-880 and Montague Expressway with the terms as follows: a month-to-month lease at a rate of \$1,666 and once the trees were trimmed, a rate of \$2,083/month.

- *RA 6.** Amendment to Project Stabilization Agreement for new Senior Center Project
- Authorized Agency Executive Director to execute Amendment No. 1 to the Library Project Stabilization Agreement with the Building Trades Council for the new Milpitas Senior Center, Project No. 8176 in the form or substantially the same form as prepared for the new library project, subject to approval of the Agency Counsel.
- RA 7. ADJOURNMENT**
- Chair/Mayor Livengood adjourned the Redevelopment Agency meeting at 7:42 PM.
- REPORTS OF OFFICERS**
- One item was approved on the consent calendar.
- 4. Appointments and Re-Appointments to City Commissions**
- Mayor Livengood provided his recommendation for Commission appointments.
- Community Advisory Commission
 Re-appoint Nika Ma Chen as Alternate No. 1 to a term that expires in January 2011.
 Appoint Phong Nguyen as Alternate No. 2 to a term that expires in January 2011.
 Appoint Bella Sangalang as Alternate No. 3 to a term that expires in January 2010.
 Newly appoint Dan Manassau as Alternate No. 4 to a term that expires in January 2010.
- Planning Commission
 Re-appoint Lawrence Ciardella to a term that expires in December 2011.
 Re-appoint Noella Tabladillo to a term that expires in December 2011.
 Appoint Aslam Ali as a regular voting member to a term that expires in Dec. 2009.
- Senior Advisory Commission
 Re-appoint Bal Daquigan to a term that expires in December 2010.
 Re-appoint Amanda Santos to a term that expires in December 2010.
 Re-appoint Florentino Menor to a term that expires in December 2010.
 Re-appoint Karen Adams as Alternate No. 2 to a term that expires in December 2010.
- Motion: to approve the appointments to City of Milpitas Commissions, as recommended by Mayor Livengood
- Motion/Second: Councilmember Giordano/Vice Mayor McHugh
- Motion carried by a vote of: AYES: 5
NOES: 0
- 5. City Council Subcommittees**
- Mayor Livengood explained his new proposed structure for five City Council Subcommittees: Rules, Finance, Economic Development, Neighborhood Services and Education, and finally, Transportation and Land Use.
- Councilmember Gomez asked how the Economic Development Commission goals would tie in to the Subcommittee, and the Mayor responded that the workload and goals would be significantly the same.
- Councilmember Giordano inquired whether it would be appropriate for Subcommittees to submit items to a Commission for study or to work on. The Mayor replied yes.
- Motion: to approve the recommendation from Mayor Livengood for five City Council Subcommittees
- Motion/Second: Councilmember Giordano/Vice Mayor McHugh
- Motion carried by a vote of: AYES: 5
NOES: 0
- 6. Milpitas Firefighters Holiday Toy & Food Drive Donation**
- Mayor Livengood requested City Council to authorize a donation in the amount of \$1,500 to the Milpitas Firefighters Holiday Toy Drive.
- Firefighter George Perez was spearheading the Toy Drive and spoke before the Council.

He explained the effort made every year along with the Chamber of Commerce. The Toy Drive was a full non-profit tax exempt organization, aiming to help 1,000 children particularly now in difficult economic times. He requested a \$3,000 donation from the City toward this season's efforts.

Councilmember Giordano asked how the children were selected. Mr. Perez explained they were chosen due to specific criteria: live in Milpitas or Alviso, show participation on welfare programs, and parents must provide a birth certificate for their child.

Councilmember Gomez stated he had no problem with the \$3,000 request, and it was the same amount given to another group recently.

Vice Mayor McHugh inquired about the remaining balance in the Community Promotions unallocated fund, and wanted to know if that meant the new remaining balance would be approximately \$3,000 (if the next item was also approved) and staff replied yes.

Councilmember Polanski thanked the firefighters for their excellent efforts. She commented on the Milpitas Food Pantry, which was asked to come back to the City in January, and she understood the need for hungry children to be fed, too.

Mr. Perez reported that the firefighters worked closely with the Milpitas Food Pantry.

Motion: move to donate \$3,000 to the Milpitas Firefighters Holiday Toy Drive, with funds allocated from the City Council's Community Promotions Unallocated budget

Motion/Second: Councilmember Gomez/Councilmember Giordano

Motion carried by a vote of: AYES: 5
NOES: 0

7. Domestic Violence Information and Resources workshop donation

Mayor Livengood requested City Council to authorize a donation in the amount of \$500 to the Domestic Violence Intervention Collaborative, which sponsored a workshop on December 10, 2008 at the India Community Center in Milpitas.

Motion: move to donate \$500 to the Domestic Violence Intervention Collaborative, with funds allocated from the City Council's Community Promotions Unallocated budget

Motion/Second: Councilmember Giordano/Vice Mayor McHugh

Motion carried by a vote of: AYES: 5
NOES: 0

9. Campaign Contributions Ordinance

This item was removed from the agenda, at the request of Councilmember Gomez.

NEW BUSINESS

Three items were approved on the consent calendar.

10. Economic Development Update Report from Staff

Economic Development Manager Diana Barnhart provided an oral report on the status of economic development in the City.

She urged the Council to take a global perspective on what was happening in the current economic market, and viewing conditions locally in the Silicon Valley. Ms. Barnhart provided statistics on General Fund revenue sources, indicating for example, that Property Tax was up 8%, Sales Tax up 7%, and significantly hotel tax was up 29%.

She noted that the Council's Roadmap to Service Improvements has provided some economic "wins" for Milpitas. Also, key recent business retentions included One

Workplace, Kovio, SanDisk, Flextronics (acquired Solectron), and Spectra Labs (from Fremont).

Councilmember Giordano asked what the attraction was for companies that moved to Milpitas. Staff replied that a major factor was a good space to move into, in an attractive facility. Additionally, good facilities for employees such as those with sports activity and the ease of getting to the office, were other factors.

Ms. Barnhart noted that general retail sales tax was the most stable tax revenue, as the and highest single source, at 35% of total.

To the City Council, staff suggested creating Business Roundtables soon, to assist segments of the business sectors in the City. Also suggested was increased corporate outreach, on a one-on-one, City to company, basis.

Councilmember Gomez asked how economic incentives could work. The Economic Development Manager replied that if Council was interested, she could come back to the subcommittee with a plan to set aside specific amounts of money for incentives such as low interest business loans with redevelopment funds, marketing assistance, or local preference purchasing policy.

Finally, staff provided four specific recommendations for economic development.

Mayor Livengood thanked staff and felt the report reflected his and the City's priorities. If the City was not nimble, and if not constantly looking for opportunities, the City would get "run over" by San Jose and other neighbors.

Councilmember Giordano complimented the Mayor for focusing on this important topic for the City, and was glad to see this report. She asked the Mayor how frequently he requested reports on economic development, and he replied every month.

Councilmember Gomez wanted to know if the City went in one direction, how did the City know if it was effective and by what measures? Ms. Barnhart responded that such measures were not in place now, but she could establish baselines. She mentioned dates at building and tracking success. It was not easy to track some other efforts. Mr. Gomez wanted measurement methods for any economic development program expense.

Staff noted that it could focus more marketing of the City on the internet, and could track that more carefully, and pursue that more actively than has been done to date.

Mayor Livengood stated, that as part of a local preference ordinance, he would like to see included performance measures in that.

Mr. Gomez asked for a definition of local preference. Ms. Barnhart responded it meant local to Milpitas (not the greater area surrounding).

Councilmember Polanski asked if a potential ordinance included low interest loans. Staff replied, no, as that was usually a separate issue. Ms. Polanski wanted to add the Low Income Business Loan program as an incentive to any recommendations.

City Manager Tom Williams commented that in any loan program, staff recommended that such loans be revolving loans, in order to assist the most businesses.

Motion: to accept the report from the Economic Development Manager, to direct staff to pursue a local preference ordinance and the Business Roundtables proposed, to work with the Council and Economic Development Commission to establish a schedule for targeted corporate business outreach, and to return to Council with a program for low interest revolving loans from Redevelopment Agency funds for small business

Motion/Second: Vice Mayor McHugh/Councilmember Giordano

Motion carried by a vote of: AYES: 5
NOES: 0

ORDINANCES

14. Traffic Ordinance No.
43.210

Three ordinances were adopted on the consent calendar.

Transportation Planner Jaime Rodriguez provided his recommendation to update the City's traffic ordinance, as was done twice per year. He reviewed speed limit changes, parking limitations, vehicle weight limits (map for oversize trucks), and turning prohibitions. All changes would occur in the Milpitas Municipal Code, by amending Title V, Section 100.

Motion: to waive the first reading beyond the title of Ordinance No. 43.210, following the reading of the title by the City Attorney

Motion/Second: Councilmember Gomez/Councilmember Polanski

Motion carried by a vote of: AYES: 5
NOES: 0

Motion: to introduce Ordinance No. 43.210 amending Chapter 100, V (Traffic) of the Milpitas Municipal Code

Motion/Second: Vice Mayor McHugh/Councilmember Gomez

Motion carried by a vote of: AYES: 5
NOES: 0

RESOLUTIONS

Four items were approved on the consent calendar.

BIDS & CONTRACTS

Four items were approved on the consent calendar.

ADJOURNMENT

Mayor Livengood adjourned the City Council meeting at 8:20 PM.

The foregoing minutes were approved by the Milpitas City Council as submitted on January 6, 2009.

Mary Lavelle
City Clerk